IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.12.2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.16694 of 1999

H.Selvaraj Nadar .. Petitioner

vs.

1. State of Tamil Nadu
   rep. by its Secretary
   Law Department
   Fort St George
   Chennai-600 009

2. The Special Deputy Tahsildar
   (Stamps)
   Taluk Office
   Vilavankodu Taluk
   Kanyakumari District

3. The Special Deputy Collector
   (Stamps)
   Collectorate Office
   Kanyakumari District .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Declaration declaring that the provisions of Section 2 of the Registration (Tamil Nadu Amendment) Act, 1997 (Tamil Nadu Act 19/97) as unconstitutional, ultra vires unenforceable and void ab initio insofar as the petitioner is concerned.

For petitioner : Mr.J.Pothiraj
For respondents : Mr.V.Manoharan
Government Advocate

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O R D E R

Heard Mr.J.Pothiraj, the learned counsel appearing for the petitioner and Mr.V.Manoharan, the learned Government Advocate appearing for the respondents.

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The brief facts of the case, as stated by the petitioner, are as follows:

2. The petitioner had purchased 2 items of lands, on 7.9.1999, under a registered sale deed in document No.1850/99 on the file of the Sub Registrar, Parasala Village, Neiyatrinkarai Taluk, Trivandrum District, State of Kerala, from one Devaraj. The first item of the property, comprised in old survey No.547, R.S.No.259/1, to an extent of 18 cents is situated at Palugal Village, Marthandam Registration District, Vilavankodu Taluk, Kanyakumari District and another property, comprised in R.S.No.187/2 to an extent of 2 cents is in Parasala Village, Neiyatrinkarai Taluk, Trivendrum District, State of Kerala. The said properties were bought for a valuable consideration of Rs.7,000/-. It was a bonafide transaction.

3. According to Section 28 of The Registration Act, (Central Act 16/1908), the sale deed can be presented for registration at any of the two places where the properties are situated. Therefore, the petitioner had registered the sale deed in the Sub-Registrar's Office at Parasala in the state of Kerala. Under Section 2 of The Registration (Tamil Nadu Amendment) Act, 1997, (Tamil Nadu Act 19/97), Section 28 of the Registration Act (Central Act 16/1908) had been amended. The amending Act was published in the Extraordinary Gazette, dated 29.3.1997. In view of the amended provisions of Section 28(a), the sale deed has to be necessarily registered in the State of Tamil Nadu. Section 28(b) of the Act renders the sale deed, dated 7.9.1999, as null and void. In such circumstances, the petitioner has come before this Court by filing the present writ petition, invoking Article 226 of the Constitution of India, challenging Section 2 of the Registration (Tamil Nadu Amendment) Act, 1997 (Tamil Nadu Act 19/97) as unconstitutional, ultra vires unenforceable and void ab initio, insofar as the petitioner is concerned.

4. At the stage of the hearing of the writ petition, it is brought to the notice of this Court that by an order, dated 10.7.2006, made in W.P.No.1989 of 1998, this Court had upheld the validity of Section 2 of the Registration (Tamil Nadu Amendment) Act, 1997 (Tamil Nadu Act 19/97).

5. The learned counsel appearing for the petitioner has not refuted the submissions made by the learned Government Advocate appearing for the respondents.

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6. Based on the submissions made by the learned counsels appearing on behalf of the parties concerned, the writ petition stands dismissed, in view of the order of this Court, dated 10.7.2006, made in W.P.No.1989 of 1998. No costs. Consequently, connected W.M.P.Nos.24187 and 24188 of 1999 are also dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

To

1. The Secretary
   State of Tamil Nadu
   Law Department
   Fort St George
   Chennai-600 009

2. The Special Deputy Tahsildar
   (Stamps)
   Taluk Office
   Vilavankodu Taluk
   Kanyakumari District

3. The Special Deputy Collector
   (Stamps)
   Collectorate Office
   Kanyakumari District.

+ 1 CC to the Government Pleader SR NO 72798

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